

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Art Unit : 1761  
Examiner : Kelly J. Mahafkey  
Applicants : Cheree L. B. Stevens et al.  
Appln. No. : 10/629,991  
Filing Date : July 30, 2003  
Confirmation No. : 3726  
For : EXTERNAL COATING COMPOSITION FOR TOASTER  
PASTRIES AND OTHER PASTRY PRODUCTS

**DECLARATION UNDER 37 C.F.R. § 1.131**

We, the undersigned, do hereby declare as follows:

1. We are the co-inventors of the claims of the above-identified patent application.
2. The invention as defined in claims 1-23 and 35-49 was conceived of and actually reduced to practice prior to March 6, 2003. Evidence of our conception and the reduction to practice is provided in the form of experimental data from "Expt 11 Coated Toaster Pastry" (attached hereto as Exhibit A). The documents provided were prepared after our conception and the reduction to practice but before March 6, 2003.
3. The acts referred to in the preceding paragraphs occurred in the United States.
4. All statements made herein of our own knowledge are true and all statements made on information and belief are believed to be true, and further, these statements are made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements may jeopardize the validity of this application or any patent issued thereon.

May 21, 2009  
Date

Cheree L. B. Stevens  
Cheree L. B. Stevens

\_\_\_\_\_  
Date

\_\_\_\_\_  
Robert O. Roskam

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Art Unit : 1761  
Examiner : Kelly J. Mahafkey  
Applicants : Cheree L. B. Stevens et al.  
Appln. No. : 10/629,991  
Filing Date : July 30, 2003  
Confirmation No. : 3726  
For : **EXTERNAL COATING COMPOSITION FOR TOASTER  
PASTRIES AND OTHER PASTRY PRODUCTS**

**DECLARATION UNDER 37 C.F.R. § 1.131**

We, the undersigned, do hereby declare as follows:

1. We are the co-inventors of the claims of the above-identified patent application.
2. The invention as defined in claims 1-23 and 35-49 was conceived of and actually reduced to practice prior to March 6, 2003. Evidence of our conception and the reduction to practice is provided in the form of experimental data from "Expt 11 Coated Toaster Pastry" (attached hereto as Exhibit A). The documents provided were prepared after our conception and the reduction to practice but before March 6, 2003.
3. The acts referred to in the preceding paragraphs occurred in the United States.
4. All statements made herein of our own knowledge are true and all statements made on information and belief are believed to be true, and further, these statements are made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements may jeopardize the validity of this application or any patent issued thereon.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Cheree L. B. Stevens

  
\_\_\_\_\_  
Robert O. Roskam

# EXHIBIT A

**Research Objective:** To prepare products for shipment to Mark Jameson and subsequent shipping to Frito Lay.

**Background:** Need to prepare coated toaster pastries using 3 levels of crispness. The 07 formula (no lecithin) was the most crisp with the 06 (with lecithin) being the most tender crisp. 08 will be half way between as a 50:50 blend of the 07 and 06. - Conduct storage test.

**Formulas:** Attached

72201-06 Starch based formula (72201-04 without KV20) 46 % WBS  
 72201-07 same as -06 but without any lecithin 46 % WBS  
 72201-08 50:50 blend of 07 and 06  
 Control no coating but sprayed with water, see below

**Method:**

1. Obtain non-frosted Kellogg Pop Tarts (strawberry flavored)
2. Spray the Pop Tart with <sup>tepid</sup> water on both sides to reconstitute the surface so that the batter can adhere - *reconstitutes the surface to act like raw dough.*
3. Let the wet Pop Tarts sit for a few minutes,
4. Lay the pastry in a pool of batter, stand on its side to drain excess batter, place on foil lined tray with oil sprayed on it.
5. ~~Brush the surface using a pastry brush to apply the batter.~~ Bake at 350°F for 15 minutes.

**Prepare Coating Mixture**

Dry mix water  
 230g 270g 46 % solids

Add dry batter for 1 min on Stir speed, scrape edges then mix for 5 min on speed 2. Rest for 15 minutes

Parameter	72201-06	72201-07	72201-08
Batter solids	46.0%	46.0%	46.0%
Water Temp	55	55	55
Batter Temp	70	65	65
Stein (top to 1 <sup>st</sup> break)	15.21 15.19	14.12 13.92	13.90 13.49 14.5
Stein Average	15.20	14.02	13.96

Used a Sunbeam brand 4 slice toaster. Heat/cook setting of 5. all 4 samples were toasted at the same time.

Calculate % pick up.

Parameter	-06	-07	-08
Uncoated wt	54.74	54.01	56.67
Coated wt	63.59	59.74	64.20
% Pick up	16.1	10.6	13.3

TARGET PICK UP = 17-21%

After cooling, pack the pastries into foil laminate packing (Kellogg Pop Tart retail pack) and heat seal on setting 3.

**Results** Feb 3, 2003 CLS, JFS 7 MONTHS OLD

-07 - invisible - laid flat.  
 -08 - areas without adhesion  
 -06 - tiny lifted areas.

} appearance

-06 and -07 had the most crisp texture, v. similar to fresh baked (06+07 were tender also. -08 seemed more moist but was not crisp - probably due to discontinuous surface. The Control sample was v. dry and crumbly. -07 was the most preferred because of invisible appearance and crisp, tender texture.

**Conclusions** Even at 7 months old, the coated toaster pastries were more crisp and more like fresh-baked pastry.

**Next Steps** - None at this point - <sup>may</sup> send formula to Eric Smith for costing.

Signed:

Cheryl Stevens

Date:

2/3/03

Signed:

Shirley Carter

Date:

02-03-03

Cheree Stevens

13-Jun-02

Coating For Toaster Pastries

CONFIDENTIAL INFORMATION OF ADVANCED FOOD TECHNOLOGIES

FORMULA -- 72201-07

ITEM	INGREDIENT	grams			Lot #
		% FORMULA	1000		
1060	Modified Food Starch KV20				
New	Midsol 35 (Midwest Grain Products)	50.8100	400 <del>508.1</del> ✓		—
1019	SAPP 28	1.8000	14.2 ✓ <del>18</del>		747122
1020	Sodium Bicarbonate #2	1.2400	9.8 ✓ <del>12.4</del>		0079F
1014	Xanthan Gum, Keltrol F	0.1500	1.2 <del>1.5</del>		10-16-00
1091	Lecigran 5750 (lecithin)				
1065	Sugar, granular	14.0000	110.2 <del>140</del>		—
1079	Dextrin, Cerestar 07702	32.0000	251.9 <del>320</del>		K0527-0126

TOTAL: 100.0000 ~~1000~~  
787.2

Dry Mix Prepared By: LE

NO WHEAT FLOUR, NO RICE FLOUR, NO ADDED COLOR, NO KV20, NO LECITHIN